

cannot be found or reached after diligent effort. Such a request must be accompanied by a statement explaining to the satisfaction of the Director the lack of the signature concerned.

[43 FR 20466, May 11, 1978, as amended at 53 FR 47810, Nov. 28, 1988; 60 FR 21440, May 2, 1995; 68 FR 59887, Oct. 20, 2003; 68 FR 67805, Dec. 4, 2003]

§ 1.422 When the inventor is dead.

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may file an international application which designates the United States of America.

§ 1.423 When the inventor is insane or legally incapacitated.

In case an inventor is insane or otherwise legally incapacitated, the legal representative (guardian, conservator, etc.) of such inventor may file an international application which designates the United States of America.

THE INTERNATIONAL APPLICATION

§ 1.431 International application requirements.

(a) An international application shall contain, as specified in the Treaty and the Regulations, a Request, a description, one or more claims, an abstract, and one or more drawings (where required). (PCT Art. 3(2) and section 207 of the Administrative Instructions.)

(b) An international filing date will be accorded by the United States Receiving Office, at the time of receipt of the international application, provided that:

(1) At least one applicant (§ 1.421) is a United States resident or national and the papers filed at the time of receipt of the international application so indicate (35 U.S.C. 361(a), PCT Art. 11(1)(i)).

(2) The international application is in the English language (35 U.S.C. 361(c), PCT Art. 11(1)(ii)).

(3) The international application contains at least the following elements (PCT Art. 11(1)(iii)):

(i) An indication that it is intended as an international application (PCT Rule 4.2);

(ii) The designation of at least one Contracting State of the International Patent Cooperation Union (§ 1.432);

(iii) The name of the applicant, as prescribed (note §§ 1.421–1.423);

(iv) A part which on the face of it appears to be a description; and

(v) A part which on the face of it appears to be a claim.

(c) Payment of the international filing fee (PCT Rule 15.2) and the transmittal and search fees (§ 1.445) may be made in full at the time the international application papers required by paragraph (b) of this section are deposited or within one month thereafter. The international filing, transmittal, and search fee payable is the international filing, transmittal, and search fee in effect on the receipt date of the international application.

(1) If the international filing, transmittal and search fees are not paid within one month from the date of receipt of the international application and prior to the sending of a notice of deficiency which imposes a late payment fee, applicant will be notified and given one month within which to pay the deficient fees plus the late payment fee. Subject to paragraph (c)(2) of this section, the late payment fee will be equal to the greater of:

(i) Fifty percent of the amount of the deficient fees; or

(ii) An amount equal to the transmittal fee;

(2) The late payment fee shall not exceed an amount equal to fifty percent of the international filing fee not taking into account any fee for each sheet of the international application in excess of thirty sheets (PCT Rule 16*bis*).

(3) The one-month time limit set pursuant to paragraph (c) of this section to pay deficient fees may not be extended.

(d) If the payment needed to cover the transmittal fee, the international filing fee, the search fee, and the late payment fee pursuant to paragraph (c) of this section is not timely made in accordance with PCT Rule 16*bis*.1(e), the Receiving Office will declare the